

MEMO ENDORSED



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VIA ECF

Hon. Valerie E. Caproni
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: United States v. Percoco, et al.
Case No. 16-cr-00776-VEC)**

Dear Judge Caproni:

We represent Mr. Aiello in the above matter and write on behalf of Mr. Gerardi pursuant to Federal Rule of Criminal Procedure 43 to jointly request that the Court waive our clients' appearance at the next pretrial conference scheduled for December 28, 2017 at 2 pm.

FRCP 43(b)(3) provides that a defendant's presence is not required when the "proceeding involves only a conference or a hearing on a question of law." The Court's December 15, 2017 Order (Doc. No. 396) states that the December 28th appearance will be a final pretrial conference to, among other things, review juror questionnaires, submit for-cause challenges, and discuss jury selection procedures. The December 28th appearance is, therefore, the type of conference contemplated under FRCP 43(b)(3) that does not require a defendant's presence. As a result, the Syracuse Defendants respectfully request that their presence be waived. The Syracuse Defendants agree to appear at any future date that the Court sets in their absence and, as indicated in the attached, signed waivers, agree that their interests will be adequately represented by their respective counsel's presence at the December 28th appearance. The Syracuse Defendants' FRCP 43 waivers are attached as Exhibit "A".

Thank you for your attention to this matter.

Very truly yours,

O'CONNELL AND ARONOWITZ

By: /s/ Scott W. Iseman

Scott W. Iseman

EDWARD J. O'CONNELL
1925-1939
SAMUEL E. ARONOWITZ
1925-1973
LEWIS A. ARONOWITZ
1951-1979

CORNELIUS D. MURRAY
FRED B. WANDER
STEPHEN R. COFFEY
JEFFREY J. SHERRIN
THOMAS J. DINOVO
PAMELA A. NICHOLS
JEFFREY A. SIEGEL
JAMI DURANTE
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LEGAL PRACTICE

Page 2

December 22, 2017

Enclosures

cc: All counsel of record (via ECF)

Request DENIED. All of the January Defendants must appear at the December 28, 2017 conference.

SO ORDERED.

 12/26/2017

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE